

Country of Origin Labeling

Overview of the Interim Final Rule (IFR)

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Country of Origin Labeling

Legal Authority

- Provision of the 2002 U.S. Farm Bill
- Amended by the FY 2002 Supplemental Appropriations Act
- Amended by the FY 2004 Omnibus spending bill
- Amended by the FY 2006 Omnibus spending bill

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Effective Date

- April 4, 2005, for wild and farm-raised fish and shellfish covered commodities
- September 30, 2008, for all other covered commodities

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Country of Origin Labeling

Consumer Notification Required at Retail

- Country of Origin
- Wild or Farm-Raised (Fish and Shellfish)
- Label or notice must:
 - Be legible
 - Not interfere with other required information

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Who Must Label – Retailer

- Retailer is defined as any person licensed as a retailer under the Perishable Agricultural Commodities Act (PACA)
- Exempts food service establishments including those within retail establishments (e.g. delis and salad bars)

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Exclusions

- Covered commodities are excluded if an “ingredient in a processed food item”
- Regulation defines “processed food item”
- Does not exclude covered commodities just because they have been further prepared for consumption

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Processed Food Item

- A retail item derived from fish or shellfish that has:
 - undergone specific processing resulting in a change in the character of the covered commodity; or
 - has been combined with at least one other covered commodity or other substantive component

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United States Country of Origin

- Wild Fish and Shellfish: Must be derived exclusively from fish or shellfish
 - **Harvested** in U.S. waters, or by a U.S. flagged vessel and;
 - **Processed** in the U.S., or aboard a U.S. flagged vessel
- Not undergone a substantial transformation (established by CBP) outside of the U.S.

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United States Country of Origin

- Farm-raised Fish and Shellfish: Must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the U.S.
- Not undergone a substantial transformation (established by CBP) outside of the U.S.

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Origin of Imported Covered Commodities

NOT Substantially Transformed in the U.S.

- Imported covered commodities shall retain the origin as declared to CBP at the time the product entered the United States

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Origin of Imported Covered Commodities

Substantially Transformed in the U.S.

- The origin for a covered commodity imported from country X, then substantially transformed in the U.S. or aboard a U.S. flagged vessel, shall be:
 - “From country X, processed in the U.S”

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Blended Products (Different Origins)

- Specific covered commodities of different origins that are combined for retail sales (e.g., portion cut fillets, shrimp)

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Origin of Blended Products

NOT Substantially Transformed in the U.S.

- The countries of origin for covered commodities shall be in accordance with other existing Federal legal requirements

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Origin of Blended Products: ALL Sources

Substantially Transformed in the U.S.

- The product shall be labeled with the countries of origin contained therein or that may be contained therein

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Country of Origin Labeling

Origin of Blended Products: SOME Sources

Substantially Transformed in the U.S.

- The countries of origin for covered commodities shall be in accordance with existing Federal legal requirements

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Method of Production – Farmed

- Harvested in controlled or selected environments, including ocean-ranched (e.g., penned) fish and including shellfish harvested from leased beds that have been subjected to production enhancements (e.g., protection from predators, providing nutrients, the addition of artificial structures)

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Method of Production – Wild

- Naturally-born or hatchery-originated fish or shellfish released in the wild and harvested from non-controlled waters or beds

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Recordkeeping

- Requires documentation to substantiate origin claims and method of production
- Provide chain of custody information
 - Routine business documents should be sufficient in most cases to document chain of custody information

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Compliance and Enforcement

- USDA will seek to enter into cooperative agreements with States for retail compliance reviews
- USDA will coordinate the scheduling and determine procedures for reviews
- Retailers are subject to a fine of up to \$10,000 per offense for willful violations
- Suppliers are subject to a fine of up to \$10,000 per offense for violations

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Main Points of Emphasis

- Covered commodities
- Processed food items
- Acceptable methods of marking
- Recordkeeping

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Covered commodities

- Fish-whole and fillets
- Shellfish-crabs, shrimp, mussels, scallops, lobsters, oysters, crawfish, snails, clams
- Does not include frog legs, alligator, turtle, caviar, fish heads

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Processed Food Item

- A retail item derived from fish or shellfish that has:
 - undergone specific processing resulting in a change in the character of the covered commodity; or
 - has been combined with at least one other covered commodity or substantive component

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Processed Food Item – Change of Character

- processes include cooking, canning, curing, smoking, and restructuring;
- and has character that is **different** from that of the covered commodity

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Processed Food Item

- Examples of covered commodities **excluded** because of change of character:
 - Smoked salmon
 - Canned tuna
 - Flesh of fish that have been compressed into a frozen block and sawed into different sizes to make various fish products
 - Pickled herring

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Processed Food Item – Combination of Substantive Food Components

- A **covered commodity** that has been combined with:
 - Other covered commodities
 - Other substantive food components (e.g., breading, tomato sauce)
- And has a character different than that of the covered commodity

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Processed Food Item

- Examples of covered commodities **excluded** because they are a combination of substantive food components:
 - Breaded shrimp
 - Seafood Medley
 - Mussels in tomato sauce
 - Stuffed salmon fillet

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Markings

- Must be conspicuous
- May be typed, printed, or handwritten
- May be in the form of a sign, placard, label, sticker, band, pin tag, check box, or twist tie
- Country of origin and method of production designations may be combined or made separately

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Country of Origin Designations

- May be abbreviated or use variant spellings as long as it can be understood by consumer
- State or regional label designations may be listed, but CANNOT be used in lieu of country of origin labeling (e.g., Alaskan salmon, Gulf shrimp)
- Flags or symbols alone may not be used to denote country of origin

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Method of Production Designations

- Various forms are acceptable, including: wild, wild-caught, farm-raised, or farmed
- Must be able to be understood by consumer and in conformance with other Federal labeling laws
- Designations such as ocean caught, caught at sea, trapped, line caught, cultivated, or cultured are NOT acceptable substitutes but may be used in conjunction with an approved designation

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Markings

Bulk containers used at retail to present product to consumers may contain a covered commodity from more than one country of origin and/or method of production provided all possible origins and/or methods of production are listed

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Recordkeeping

- Requires documentation to substantiate origin claims and method of production
- Provide chain of custody information

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Recordkeeping – Retailers at Point of Sale

- Records relied on to make claims must be available for as long as the product is offered for sale
- For pre-labeled products, the label itself is sufficient evidence on which retailer may rely to establish origin and method of production

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Pre-labeled Products

- Covered commodity packaging (i.e., consumer packages or shipping containers) that is labeled for country of origin and/or method of production by the firm or entity responsible for making the initial claim for these attributes or by a further processor or repacker

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**For More Information:
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